



FH  
[REDACTED]

**STATE OF WISCONSIN  
Division of Hearings and Appeals**

---

In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/162787

---

**PRELIMINARY RECITALS**

Pursuant to a petition filed December 19, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Kenosha County Human Service Department in regard to FoodShare benefits (FS), a hearing was held on January 20, 2015, at Kenosha, Wisconsin.

The issue for determination is whether the agency correctly discontinued the petitioner's FoodShare (FS) benefits when the agency confirmed that the petitioner had an intentional program violation sanction.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

I

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: Karen Mayer

Kenosha County Human Service Department  
8600 Sheridan Road  
Kenosha, WI 53143

**ADMINISTRATIVE LAW JUDGE:**

Corinne Balter

Division of Hearings and Appeals

**FINDINGS OF FACT**

1. The petitioner (CARES # [REDACTED]) is a resident of Kenosha County.
2. The petitioner had an open FoodShare (FS) case in November 2014.

3. On November 13, 2014 the agency received notification that the petitioner had an intentional program violation sanction from [REDACTED]. The agency called [REDACTED] and verified that the petitioner had a ten-year intentional program violation sanction effective until July 31, 2017.
4. On November 14, 2014 the agency sent the petitioner a notice stating that her FS benefits would terminate effective December 1, 2014 due to an intentional program violation.
5. On December 19, 2014 the Division of Hearings and Appeals received the petitioner's request for fair hearing.

### **DISCUSSION**

FoodShare (FS) is a federal program. States administer this program in accordance with the federal regulations. The federal regulations require state agencies to investigate any alleged or suspected intentional program violation, and to pursue administrative disqualification in appropriate cases. 7 C.F.R. §273.16(a)(1). An intentional program violation occurs when a person makes a false or misleading statement, or misrepresents, conceals or withholds facts; including their identity or place of residence; or commits any act that violates the Food Stamp Act or Program regulations. *Wisconsin FoodShare Handbook* §3.14.1 (viewable online at <http://www.emhandbooks.wisconsin.gov/fsh/fsh.htm> last viewed January 2015). If a person is found to have made a fraudulent statement about identity or place of residence in order to receive simultaneous FS benefits from two or more states, then the person is ineligible to receive FS benefits for ten years. 7 C.F.R. §273.16(a)(3)(b)(5).

When a state alleges a person has committed an intentional program violation, the person has a right to have an administrative disqualification hearing. 7 C.F.R. §273.16(e). If the hearing authority concludes that the FS recipient committed the intentional program violation, then the hearing authority must order the disqualification period specified in the regulations. 7 C.F.R. §273.16(e)(8). Once a disqualification penalty has been imposed, the period of disqualification shall continue uninterrupted. 7 C.F.R. §273.16(e)(8)(iii). State agencies must report each individual disqualified for an intentional Program violation to a national database. 7 C.F.R. §273.16(i)(2). States must use this database when determining FS eligibility. 7 C.F.R. §273.16(i)(4)(i). The disqualification of an individual in one jurisdiction is valid in all jurisdictions. 7 C.F.R. §273.16(i)(4)(ii).

In this case the petitioner received a ten-year intentional program violation disqualification from [REDACTED]. The disqualification period is until July 31, 2017. When the Wisconsin agency learned about this disqualification period, the agency properly terminated the petitioner's FS benefits as a disqualification from one jurisdiction, [REDACTED], is valid in all jurisdictions including Wisconsin.

At the hearing the petitioner sought to challenge the underlining intentional program violation. The proper forum to challenge that would have been the administrative disqualification hearing in [REDACTED]. The [REDACTED] hearing officer made a finding that the petitioner committed an intentional program violation. Other states including Wisconsin are bound by that finding.

### **CONCLUSIONS OF LAW**

The agency properly terminated the petitioner's FS benefits when the agency learned that the petitioner had a ten-year intentional program disqualification effective until July 31, 2017.

**THEREFORE, it is**

**ORDERED**

That the petition is dismissed.

## REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

## APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 22nd day of January, 2015

---

\sCorinne Balter  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

Brian Hayes, Administrator  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on January 22, 2015.

Kenosha County Human Service Department  
Division of Health Care Access and Accountability